



State of Connecticut
HOUSE OF REPRESENTATIVES
STATE CAPITOL
HARTFORD, CONNECTICUT 06106-1591

REPRESENTATIVE MAE FLEXER
FORTY-FOURTH ASSEMBLY DISTRICT

LEGISLATIVE OFFICE BUILDING
ROOM 4009
HARTFORD, CT 06106-1591
CAPITOL: (860) 240-8585
TOLL FREE: 1-800-842-8267
FAX: (860) 240-0206
E-MAIL: Mae.Flexer@cga.ct.gov

MEMBER
HIGHER EDUCATION AND EMPLOYMENT
ADVANCEMENT COMMITTEE
HUMAN SERVICES COMMITTEE
PLANNING AND DEVELOPMENT COMMITTEE
INTERNSHIP COMMITTEE

Insurance and Real Estate Committee
Testimony for SB 28

An Act Concerning Surety Bail Bond Agents and Professional Bondsmen

February 8, 2011

Good afternoon Representative Megna, Senator Crisco and distinguished members of the Insurance Committee,

Thank you for the opportunity to testify on Senate Bill 28. As Chair of the Speaker's Task Force on Domestic Violence, I applaud your efforts over the last several years to reform the bail bond system and appreciate that your committee is once again looking closely at this issue. Bail bond reform is an issue that the task force has been focusing on in the last several months. In the coming weeks the task force will be recommending a set of proposals for consideration during this legislative session. Reform of bail bond services will be one of the priorities of the Task Force's legislative recommendations.

The issue of bail bond reform has come to the attention of the Domestic Violence Task Force because it is an issue of victim safety. The existing system, which allows offenders to bond out without paying the full premium rate or with no down payment in a payment arrangement plan, leaves victims with the misconception that the offender would be incarcerated. We have heard about this issue in depth from victim advocates and victims themselves from across the state. Perhaps the most high-profile recent case of a failure of the existing system was the murder of Shengyl Rasim in West Haven on January 17, 2010. This case has been investigated thoroughly by the office of State's Attorney Kevin Lawlor. This investigation discovered the following, troubling series of events.

On January 17, 2010 Selami Ozdemir was arrested and charged with assault in the third degree, threatening, and violation of a protective order. A bail bondsman was able to bond out Mr. Ozdemir without retaining any monetary compensation from the accused. The bond for Mr. Ozdemir was set at \$25,000 because this was a repeat offense against the same victim, the charges were quite serious and the offender had a current criminal record, among other factors. In a properly run system, Mr. Ozdemir would have had to obtain \$1900 for a bondsman. Instead, the bail bondsmen obtained his release without any payment at all. This quick release allowed for absolutely no "cooling off" period after the initial incident that day. Mr. Ozdemir's almost instant departure from the police department allowed him to go on to obtain a handgun.

In the district: 452 Main Street - Danielson, CT 06239

SERVING KILLINGLY, PLAINFIELD & STERLING

Legislative Program Review & Investigations Committee

Bail Services in Connecticut

December 2003

Digest

Right to Bail

The right to bail is a founding principle of the American criminal justice process. The existing laws on bail are vague and confusing and in some procedural areas there are no statutory guidelines.

Bail options Nonsurety bonds are rarely used and are unenforceable because there is no process to collect a forfeited nonsurety bond.

1. Repeal existing statutory authorization for the nonsurety bond and authorize written promise to appear as the only available nonfinancial bond option.

Cash only bond There is ambiguity between the bail statutes and rules of the court in that court rules but not state law authorize a cash only bond.

Judges do not over-rely on the cash only bond option. It has been used by judges to respond to specific types of cases and to effect payment of fines. The Superior Court appears to have incorporated the cash bond option into the bail system and it should be codified in state law.

2. Statutorily authorize a cash only bond as the most restrictive bond option.

Posting 10 percent cash and cash only bonds While it is not specifically set out in statute, it is the intent of the legislature and the interpretation of the Superior Court a defendant must post his or her own personal funds in cash directly with the court to be released on a 10 percent cash or cash only bail bond.

3. Amend existing statutes to prohibit professional and surety bail bondsmen from posting and insurers from underwriting 10 percent cash and cash only bonds.

8. Consolidate the authority and responsibility to license and regulate the commercial bail bond industry within Division of State Police by transferring control and function over surety bail bondsmen from the Insurance Department.

Licensing criteria The eligibility and licensing criteria for surety bail bondsmen and bail enforcement agents should better reflect the state's standards for suitability.

No changes are recommended to the current eligibility and licensing criteria for professional bail bondsmen because through attrition and the recommended termination of new professional bail bondsmen licenses the system of personal bond underwriting will eventually end.

9. Establish new statutory eligibility criteria and licensing standards for surety bail bondsman and bail enforcement agents to ensure a person's suitability to work in the industry. Require the Division of State Police conduct a background investigation of each applicant.

10. Require any person responsible for the operation and management of a bail bond agency and supervision of professional or surety bail bondsmen within that agency to also be licensed as a professional or surety bail bondsman.

11. Require all licensed professional and surety bail bondsmen shall post a \$10,000 cash performance bond with the Division of State Police by June 30, 2004. The Division of State Police shall return the bond amount to the licensee upon voluntary termination or revocation of the license by the division, but may withhold the balance of any unpaid fine imposed upon the bail bondsmen as a result of a substantiated administrative violation or infraction.

12. Require all licensed professional and surety bail bondsman and bail enforcement agents engaged in the bail fugitive recovery process to provide proof of a minimum of \$300,000 general liability insurance coverage for recovery activities including but not limited to personal injury for false arrest, false imprisonment, libel, and slander to the Division of State Police prior to licensing or license renewal.

13. Require all licensed professional and surety bail bondsmen shall provide written notice to the Division of State Police within two business days of any change of address. The notice shall include the person's old and new address.

License renewal The statutory criteria for license renewal are vague and inconsistent among the entities of the commercial bail bond industry. The authority to deny license renewal is a regulatory tool and its enforcement should be clearly defined.

14. Require professional and surety bail bondsman and bail enforcement agent licenses be renewed annually. Require all licensees to initiate the application process, meet the statutory requirements for license renewal, and pay a \$250 fee.

Commercial Bail Bonds

Bail bondsmen fees and pricing practices Different pricing standards are inherently unfair and are a contributing factor to the current illegal and unprofessional pricing practices among bail bondsmen. Establishing a mandatory fixed pricing schedule for professional and surety bail bondsmen supports the fundamental purposes of bail and is critical to preventing illegal pricing.

23. Set the nonrefundable fees charged by professional and surety bail bondsmen at 10 percent for any bond amount over \$500.

24. Require professional and surety bail bondsmen to issue a written receipt including the amount of the nonrefundable fee charged to all clients for whom he or she posts a bond. Require bail bondsmen to maintain a copy of the receipt as part of the business record, which is subject to auditing by the Division of State Police, Insurance Department, and the Office of the Attorney General.

25. Require professional and surety bail bondsmen to also record the amount of the nonrefundable fee to post a bond on the appearance bond form.

Bail bond processing The commercial bail bond industry claims as a primary benefit of its service is there is no cost to the state to support the independent bail bonding system. This is not accurate. The judicial branch performs several administrative functions to ensure an effective and efficient bail bond system. Since bail bonding generates revenue, the system should be self-funding.

26. Set a processing fee of \$25 assessed to a professional or surety bondsman, insurer, defendant, or any person posting a financial bond (i.e., surety, 10 percent cash, cash only, property) of \$500 or more. Dedicate the generated revenue to the judicial branch to fund the administrative costs associated with the bail bond process and to re-establish the jail re-interview project.

Notice of forfeiture Beginning in April 2004, written notice of forfeited bail bonds will be sent to the insurance company underwriting the bail bond and not the surety bail bondsman. Given the current practice among some bail bondsmen of intentionally failing to provide forfeiture notice to an insurance company, there is the possibility a bail bondsman may attempt to intercept or prevent a bond forfeiture notice from being sent directly to an insurer by providing an alternative, incorrect, or fraudulent address.

27. Require written notice of a forfeited surety bond is mailed to the insurance company's corporate headquarters address in its domicile state that is on file with the Insurance Department. Prohibit the forfeiture notice from being mailed to a post office box or commercial mailbox address, to a Connecticut address if the insurance company is headquartered out-of-state, or to a surety bail bondsman or attorney. Establish a presumption any mail posted and not returned to the state has been delivered to the addressee.

36. Require the automatic and immediate suspension of an insurer's or professional bail bondsman's license for nonpayment of a forfeited bail bond after the 30-day payment period. The suspension remains in effect until full restitution of the debt is made, and during the suspension the insurer or professional bondsman cannot post any bail bond in Connecticut.

37. Require an insurer's or professional bail bondsman's license be revoked when a period of license suspension for nonpayment of a forfeited bail bond exceeds six months. Require a surety bail bondsman's license be revoked if he or she engages in a pattern of misconduct that contributes to the insurer's nonpayment of a forfeited bond.

38. Require the judicial branch, Division of State Police, Insurance Department, Department of Administrative Services, and the Office of the Attorney General implement a process to provide timely notification and accurate information to facilitate the collective of forfeited bail bonds and the automatic license suspension process.

39. Dedicate 10 percent of collected forfeited bail bond funds to the Department of Administrative Services for the civil collection function.

40. Require the judicial branch review and amend if necessary the existing rebate schedule for forfeited bail bonds, and require bail bondsmen eligible for a rebate apply directly to DAS.

Indemnitor eligibility for discount and rebate Although the entitlement for a discount payment and rebate for forfeited bail bonds are not authorized by state law for an indemnitor other than a licensed bail bondsman, it is the intent of the legislature to treat a bondsman and an indemnitor equally. The Superior Court also has authority under its common law powers to grant the rebate to an indemnitor and the chief state's attorney has amended its practice to allow an indemnitor to pay a forfeited bail bond at a discounted rate.

41. Amend existing statutes to entitle a person other than a licensed bail bondsman or insurer posting a surety bond to pay at the recommended 10 percent discounted rate and to a rebate on a portion of the paid forfeited bond when a fugitive defendant is returned to custody with one year.

Motions for judgment or appeal Motions that lack legal merit and are brought solely for the purpose of delaying payment of a forfeited bail bond cost the state money and impact the integrity of the commercial bail bond industry.

42. Require an insurer, professional or surety bail bondsman, principal, or indemnitor filing a motion seeking trial court judgment or appellate review of a final judgment on a forfeited bond: (1) place in escrow with the trial court the sum of the forfeited bail bond or pay the amount under protest with a reservation of appellate rights; or (2) post with the trial court a *supersedeas* bond from a different and sufficient surety insurer in the amount of one and one half times (150 percent) of the forfeited bail bond guaranteeing payment of

46. Authorize the chief state's attorney to contract with a private prisoner transport company for transporting bail fugitives and other fugitives from justice to and from Connecticut to face prosecution or serve a prison sentence.

Firearm permits The federal Interstate Transportation of Dangerous Criminal Act meets the intent and qualification criteria of the state's firearm permit laws

47. Exempt a private prisoner transport company and its employees operating in Connecticut from state firearm or weapon permit requirements if its policies meet the minimum standards established under the Interstate Transportation of Dangerous Criminal Act and are approved by the Division of State Police.

State fugitive recovery process Since most fugitive offenders are apprehended during routine police work, it is critical outstanding rearrest warrants are entered into the state and national criminal information systems: COLLECT and NCIC.

Fugitive recovery is an essential element to the bail process. It holds defendants released on bail accountable to meet the contractual obligations of the bail bond and assists with the orderly and effective administration of justice by ensuring defendants appear in court as ordered. It provides public and police officer safety by identifying and taking potentially dangerous offenders into custody.

Given the backlog of outstanding rearrest warrants, the current state resources allocated to fugitive recovery are inadequate. To be most effective, fugitive recovery must be an on-going intelligence gathering and tactical process.

48. Require the Division of State Police expand its fugitive recovery unit and prioritize locating and apprehending bail fugitives. Dedicate 30 percent of collected forfeited bond funds to the division for this function.

The existing mandate for the surveillance of serious felony offenders released on bail is unworkable given current resources, jurisdictional issues, and caseload. The intent of the legislation is met through the witness protection program administered by the Office of the Chief State's Attorney.

49. Repeal the statutory requirement for the chief state's attorney to develop protocols for the surveillance of persons charged with serious felony offenses that are out on bail.